request that the Examiner withdraw, or at the very least modify, the requirement for restriction and provide an action on the merits of the nonelected claims.

Restriction is proper only if the claims are either independent or patentably distinct and the search and examination of the entire application would impose a serious burden on the examiner (MPEP § 803). Applicants respectfully traverse the Restriction Requirement because the Examiner has not provided sufficient reasons to show that such a burden exists. Here, all of applicants' claims are directed to methods for fermenting substrates with *Candida sp.*, and as the Examiner has noted, both Groups are within Class 435. It is only with respect to the end product, whether a carboxylic acid (Claims 1-15) or an alcohol (Claims 16-30), that the two Groups differ. Applicants submit that the Examiner, in searching for methods for fermenting substrates with *Candida sp.* as claimed by applicants, would necessarily find art related to carboxylic acid products (the claims of Group I) and alcohol products (the claims of Group II).

The Examiner has also asserted that the application contains claims to a variety of patentably distinct species depending on the yeast, solvent, and substrate used, and that no claim is currently generic. Applicants respectfully traverse, as Claim 1 is clearly generic with respect to the claims of elected Group I and does **not** require a solvent.

Claim 1 as currently drafted is directed to a process for producing a carboxylic acid comprising culturing *Candida sp.* in a fermentation medium containing a substrate of the formula $R(CH_2)_n CH_3$ wherein n is ≥ 1 and R is selected from a defined group. There is no requirement in Claim 1 that the substrate be dissolved in a solvent: dependent Claim 2 discloses dissolving the substrate in a solvent. Accordingly, contrary to the

Examiner's assertion, the use of a solvent to dissolve the substrate is not a required element of applicants' process.

As noted in MPEP § 803.02, unity of invention exists where compounds included within a Markush group share a common utility and share a substantial structural feature disclosed as being essential to that utility. Claim 1 is directed to utilizing a microorganism of *Candida sp.* to produce a carboxylic acid and clearly contains a proper Markush group, the substrate of formula $R(CH_2)_nCH_3$, which all contain $--(CH_2)_nCH_3$. As set forth in Claim 1, it is the terminal methyl group of the substrate which is oxidized to produce a carboxylic acid. Thus, Claim 1 is in accordance with the unity of invention requirements set forth in MPEP § 803.02: the substrates share a common utility in that they are processed by *Candida sp.* to produce carboxylic acids, and they share a substantial structural feature disclosed as being essential to that utility, $--(CH_2)_nCH_3$. This commonality of invention permits the process of Claim 1 to be considered a single invention and thus Claim 1 is generic with respect to applicants' Group I. *See In re Harnisch*, 206 USPQ 300, 305 (CCPA 1980).

Accordingly, contrary to the Examiner's assertions, Claim 1 is clearly generic with respect to fermenting a substrate with *Candida sp.* and clearly does not require a solvent.

The same argument applies to Claim 16 with respect to the fermentation of substrates to produce alcohols.

However, to comply with paragraph 7 of the May 1, 2002 Office Action, Applicants elect, with traverse, the following species within Group I: *Candida tropicalis* as a microorganism, ethanol as a solvent, and cycloalkyl as a substrate (A, B, and C of

Paragraph 6 of the Office Action mailed May 1, 2002).

Applicants respectfully submit that all of the claims of the application as presented herein, including the nonelected claims, are in condition for examination on the merits. Early favorable action is earnestly solicited.

Respectfully submitted,

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